

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 11742 of 2007(W)

PETITIONER:

JESSY K.MATHEW, W/O.DR.GEORGE,
MALLOOTHARA HOUSE, KOLLADU P.O, KOTTAYAM.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENTS:

1. THE INSPECTOR GENERAL OF REGISTRATION,
OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION
OF KERALA TRIVANDRUM.
2. THE ACCOUNTANT GENERAL OF KERALA,
TRIVANDRUM.

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE EXPLANATION BY THE PETITIONER DATED 21.2.2004.
- EXT.P2: COPY OF THE LETTER DATED 11.5.2004 BY THE SUB REGISTRAR.
- EXT.P3: COPY OF THE LETTER DATED 6.5.2004 BY THE DISTRICT REGISTRAR (GENERAL) KOTTAYAM TO THE SUB REGISTRAR, MEENACHIL.
- EXT.P4: COPY OF THE LETTER DATED 31.5.2005 BY THE SUB REGISTRAR, MEENACHIL.
- EXT.P5: COPY OF THE PROCEEDINGS OF THE ACCOUNTANT GENERAL DATED 20.4.2005.
- EXT.P6: COPY OF THE AUDIT REPORT.
- EXT.P7: COPY OF THE REPLY BY THE PETITIONER DATED 15.6.2005.
- EXT.P8: COPY OF THE COMMUNICATION FROM THE 1ST RESPONDENT.
- EXT.P9: COPY OF THE LETTER DATED 26.6.2006 ISSUED BY THE DT.REGISTRAR(G).
- EXT.P10: COPY OF THE LETTER DATED 28.2.2007 BY THE 1ST RESPONDENT.

.....

BKN

// TRUE COPY//

K. BALAKRISHNAN NAIR, J.

W.P.(C) No.11742 of 2007 (W)

Dated this the 20th June, 2007.

JUDGMENT

The petitioner, who is a retired Sub Registrar, challenges the liability fixed against her, after her retirement. Based on the liability so fixed, an amount of Rs.37,993/- has been deducted from her death-cum-retirement gratuity. The said liability was fixed based on two transactions. The first irregularity relates to the alleged failure of the petitioner to take action in time to recover the loss to the State, caused as a result of the undervaluation of a property, registered during the period of his predecessor. The petitioner submits that the report regarding such undervaluation reached her only after the period of limitation for initiation of action was over. The 2nd irregularity is that she failed to find out that a property conveyed was subject to a mortgage and that the document was grossly undervalued owing to the failure of the petitioner to find out the mortgage. According to the petitioner, she is not bound to make a roving enquiry to find out whether there is any charge on the

property. Though in relation to both the liabilities the petitioner has offered specific explanation, they are not seen considered or dealt with, when Exts.P3 and P10. Hence this writ petition.

2. The first respondent has filed a counter affidavit, resisting the prayers in the writ petition. Petitioner submits that in the counter affidavit, the first respondent has not dealt with her contention regarding the first liability. According to her, regarding the second liability, the first respondent, practically, agrees with her.

3. I heard the learned Government Pleader for the respondents.

4. When a liability is fastened on a retired employee, if the said employee objects to it, the order must be a speaking order, fairly dealing with the contentions raised. Exts.P3 and P10 do not contain any reason to overrule the objections of the petitioner. Accordingly, they are vitiated for not taking into account relevant matters. So, they are quashed. The first respondent will be free to pass fresh final orders on the liability of the petitioner, in accordance with law, taking into account the objections raised by her. This

shall be done by the first respondent within two months from the date of receipt of a copy of this judgment.

This writ petition is disposed of as above.

**K. BALAKRISHNAN NAIR,
JUDGE.**

vav.